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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 2012-0076; Sequence 46]

[OMB Control No. 9000-0083]

**Federal Acquisition Regulation; Submission for OMB Review;
Qualification Requirements**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of reinstatement request for an information collection requirement regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Qualification Requirements. A notice was published in the Federal Register at 77 FR 51784, on August 27, 2012. One respondent submitted comments.

DATES: Submit comments on or before [Insert date 30 days after publication in the Federal Register.]

ADDRESSES: Submit comments identified by **Information**

Collection 9000-0083, Qualification Requirements, by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link

"Submit a Comment" that corresponds with "Information Collection 9000-0083, Qualification Requirements".

Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0083, Qualification Requirements" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417. ATTN: Hada Flowers/IC 9000-0083, Qualification Requirements.

Instructions: Please submit comments only and cite Information Collection 9000-0083, Qualification Requirements, in all correspondence related to this collection. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Corrigan,

Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, (202) 208-1963 or patricia.corrigan@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR subpart 9.2 and the associated clause at FAR 52.209-1, implement the statutory requirements of 10 U.S.C. 2319 and 41 U.S.C. 3311, which allow an agency to establish a qualification requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract. Under the qualification requirements, an end item, or a component thereof, may be required to be prequalified. The clause at FAR 52.209-1, Qualification Requirements, requires offerors who have met the qualification requirements to identify the offeror's name, the manufacturer's name, source's name, the item name, service identification, and test number (to the extent known). This eliminates the need for an offeror to provide new information when the offeror, manufacturer, source, product or service covered by qualification requirement has already met the standards specified by an agency in a solicitation.

The contracting officer uses the information to determine eligibility for award when the clause at 52.209-1 is included in the solicitation. Alternatively, items not yet listed may be considered for award upon the submission of evidence of qualification with the offer.

B. Analysis of Public Comments

One respondent submitted public comments on the extension of the previously approved information collection. The analysis of the public comments is summarized as follows:

Comment: The respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because of the burden it puts on the entity submitting the information and the agency collecting the information.

Response: In accordance with the Paperwork Reduction Act (PRA), agencies can request an OMB approval of an existing information collection. The PRA requires that agencies use the Federal Register notice and comment process, to extend the OMB's approval, at least every three years. This extension, to a previously approved information collection, pertains to FAR subpart 9.2 and the associated clause at FAR 52.209-1. This information collection, which implements the statutory requirements of 10 U.S.C. 2319 and 41 U.S.C. 3311, which allows an agency to establish a qualification requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract. Under the qualification requirements, an end item, or a component thereof, may be required to be prequalified. The clause at FAR 52.209-1,

Qualification Requirements, requires offerors who have met the qualification requirements to identify the offeror's name, the manufacturer's name, source's name, the item name, service identification, and test number (to the extent known). This eliminates the need for an offeror to provide new information when the offeror, manufacturer, source, product or service covered by qualification requirement has already met the standards specified by an agency in a solicitation. The contracting officer uses the information to determine eligibility for award when the clause at 52.209-1 is included in the solicitation.

Comment: The respondent commented that the agency did not accurately estimate the public burden challenging that the agency's methodology for calculating it is insufficient and inadequate and does not reflect the total burden. The respondent stated that "the Agencies estimate that only 2,207 respondents will be subject to this

requirement annually ... we respectfully submit that this is greatly understated." The respondent also took issue with the "number of responses annually per respondent. The Agencies have reduced the prior estimate by 95% without any explanation. The current estimate of five responses per year is entirely unrealistic." Further, the respondent

found the estimate of 15 minutes per response to be "unrealistic" indicating that "a reasonable estimate would be in the range of at least two to three hours per response". For this reason, the respondent provided that the agency should reassess the estimated total burden hours and revise the estimate upwards to be more accurate. The same respondent provided that the burden of compliance with the information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

Response: Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where an adjustment was made from the total preparation hours from three to 60. This change was made considering particularly the hours that would be required for review within the company, prior to release to the Government.

The burden is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For example, consideration is given to an entity reviewing instructions; using technology to collect,

process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business.

Following careful consideration of both the estimated number of respondents and the time needed to respond to the information required by the clause at FAR 52.209-1, it is determined that an upward adjustment is required.

In response to the respondent's concern that "the Agencies' estimate that only 2,207 respondents will be subject to this requirement annually" was "greatly understated", it should be noted that the clause at FAR 52.209-1, Qualification Requirements, is used in relatively limited circumstances. The clause is prescribed for solicitations and contracts only when the acquisition is subject to a qualification requirement, which should be rare because of the statutory requirement favoring the acquisition of commercial items. Further, offerors are only

required to provide information in paragraph (c) of the clause in cases where the offeror, manufacturer, source, product or service covered by a qualification requirement has already met the standards specified in the solicitation. Given these limiting circumstances and absent receipt of additional data to support the respondent's comments, the estimated number of respondents is revised from the previous 2,207 to 5 percent or 9,693 of the 193,859 unique vendors awarded contracts during Fiscal Year 2011. It is estimated that 5 percent of the 193,859 vendors would have received awards for solicitations in which the clause at FAR 52.209-1 was used and contained one or more qualification requirements.

The respondent also commented on the estimated number of responses annually, stating that "the Agencies have reduced the prior estimate by 95% without any explanation. The current estimate of five responses per year is entirely unrealistic." The estimated number of responses annually contained in the currently approved information collection is changed from 100, which was based on an estimated number of qualification requirements contained in each solicitation, to an estimated average of 5 responses per respondent. The estimated number of responses refers to the average number of offers received annually per respondent

for the type of information associated with this collection, despite the number of qualification requirements contained in a solicitation.

Lastly, based on the previous explanation of the limited circumstances of which this collection applies and the respondent's comments, the estimated responses time is revised from 15 minutes to one hour. The estimate is an average time for an offeror to complete six brief responses of what should be readily available qualification documentation regarding one to four qualified products per solicitation.

C. Annual Reporting Burden

There is no Governmentwide data collection process or system, e.g., Federal Procurement Data System (FPDS) which

respondents has been raised from 2,207 to 9,693 reflecting an estimate of 5 percent of the 193,859 new contracts awarded in Fiscal Year 2011. Lastly, the estimated Hours per Response is raised from 15 minutes to one hour to accommodate an information collection on multiple qualified products in each solicitation.

Respondents: 9,693.

Responses Per Respondent: 5.

Annual Responses: 48,465.

Hours Per Response: 1.0.

Total Burden Hours: 48,465.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC, 20417, telephone (202) 501-4755. Please cite OMB Control No. 9000-0083, Qualification Requirements, in all correspondences.

Dated: January 18, 2013.

William Clark,
Acting Director,
Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy,
Office of Governmentwide Policy.

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